

ARTICLE 10-01

ORGANIZATION

Chapter
10-01-01 General Administration

CHAPTER 10-01-01 GENERAL ADMINISTRATION

Section
10-01-01-01 Organization of Office of Attorney General

10-01-01-01. Organization of office of attorney general.

1. **History.** The attorney general is a constitutional officer whose duties are primarily legal in nature. The office is not, for most purposes, an administrative agency. However, the legislative assembly has determined that certain licensing functions should be under the administration of the attorney general and some of these functions involve the adoption of rules pursuant to the Administrative Agencies Practice Act, North Dakota Century Code chapter 28-32.

The attorney general is the constitutionally elected head of the office of attorney general. The staff consists of a general counsel, assistant attorneys general, investigators, licensing regulators, accountants, training officers, statisticians, and other necessary support staff. Some state agencies that have legal counsel with the title of assistant attorney general or special assistant attorney general who are paid by the employing agency but appointed by the attorney general and legally responsible to the attorney general.

2. **Divisions and functions.** The office of attorney general of the state of North Dakota is divided into nine divisions. The advantage of the division concept is that it provides for supervision at a lower level and allows all of the portfolios to be assigned on a centralized basis rather than by individual subject matter or attorney.

Each division is headed by an appointed director. The director of each division is the primary contact person for that division and is responsible for the overall management of the division.

The agency consists of the following divisions and sections.

- a. Finance and administration division. The finance and administration division is responsible for supervising all office financial and administrative functions. This division handles office budget matters, data and word processing duties, support staff duties, and nonlegal employee personnel matters.

- b. State and local government division. The state and local government division is responsible for the successful and timely preparation, coordination, and distribution of a broad range of legal services to state agencies, and professional and occupational boards and has primary responsibility for all attorney general's opinions and letter responses.

Attorneys assigned to the division are responsible for providing the necessary legal advice and assistance to governmental agencies served by the division. However, when agencies become involved in litigation, either civil or criminal, the state and local government division attorney coordinates the activities with respect to that litigation with the criminal and regulatory division or the civil litigation division as appropriate.

This division also responds to requests for noncriminal assistance from local governmental agencies.

- c. Criminal and regulatory division. The criminal and regulatory division is responsible for the enforcement and application of all laws dealing with alcoholic beverage licensing, tobacco licensing, gaming licensing, polygraph examiners licensing, and transient merchant licensing. The attorneys assigned to this division provide legal assistance to those divisions of the office of attorney general involved in matters such as gaming, and consumer protection and antitrust.

The division is also responsible for matters involving criminal laws, law enforcement, and state's attorneys. Attorneys assigned to this division are responsible for meeting this office's responsibilities to the various law enforcement agencies, and for issues of criminal law.

- d. Civil litigation division. The civil litigation division, which is supervised by the solicitor general, is responsible for the overall coordination of all civil litigation and all civil appellate cases involving or affecting the state of North Dakota. These responsibilities include:

- (1) Civil litigation brought against the state, state agencies, state officials, and state employees (other than natural resources and Indian affairs litigation).
- (2) Representation of agencies at administrative hearings (other than natural resources and Indian affairs, gaming, liquor licensing, and consumer protection hearings).

(3) Appeals to state and federal courts (other than those involving cases in natural resources and Indian affairs, gaming, liquor licensing, and consumer protection).

- (4) Debt collection and foreclosures.
- (5) Representing (and advising) state agencies with regard to personnel-related questions and litigation.

It is the solicitor general's responsibility to oversee those cases involving or affecting the state of North Dakota so the attorney general may be kept informed of the status of such cases. Finally, the solicitor general is responsible for reviewing requests to join as amicus presented to North Dakota by other states.

- e. Natural resources and Indian affairs division. The natural resources and Indian affairs division is responsible for legal issues involving agriculture, water, oil and gas, land department, environment, game and fish department, and the parks department. Additionally, Indian law issues are handled by this division. The division's duties include the management of litigation and the preparation of attorney general opinions and letter responses concerning natural resources and Indian affairs.
- f. Bureau of criminal investigation.
 - (1) Criminal section.
 - (2) Narcotics section.
 - (3) Training section.
 - (4) Grants management section.
 - (5) Criminal justice information services section.

The bureau of criminal investigation is responsible for conducting criminal and narcotics investigations, for training criminal justice personnel, for maintaining training and licensing records for peace officers, for administering federal grant funds for criminal justice programs, and for maintaining criminal justice information systems.

- 9. Fire marshal division. The state fire marshal is appointed by the attorney general and supervises the operation of the fire marshal division. The division is responsible for enforcing state laws for prevention of fires; coordinating resources for large rural wild-land fires; storage, sale, and use of combustibles and explosives; installation and maintenance of fire alarms and fire extinguishing equipment; adequacy of exits from public buildings; investigation of arson and the cause and origin of fires and education on hazards of fire. The division also has responsibility for the state's emergency response to hazardous materials incidents and hazardous materials training.

- h. Consumer protection and antitrust division. The consumer protection and antitrust division is responsible for enforcing the state consumer fraud laws, investigating claims of fraud, misrepresentation, and deceptive practices in the sale or advertisement of merchandise and mediating consumer complaints against businesses. The division plays an important role in educating members of the public regarding consumer issues. The division is also responsible for investigating antitrust violations and enforcing state antitrust laws.
 - i. Gaming division. The gaming division is responsible for regulating, enforcing, and administering charitable gaming activity in North Dakota. The gaming division performs office and field audits and investigations of gaming organizations, distributors, and manufacturers; ensures that the receipt, control, and disbursement of gaming funds are accurate and according to law; reviews gaming tax returns; issues administrative complaints; issues work permits to gaming employees; conducts criminal history background checks of applicants, including officers and stockholders of distributors, manufacturers, and Indian casino management companies; provides guidance and trains representatives of organizations, distributors, manufacturers, and local law enforcement agencies; and ensures compliance with five tribal-state Indian casino gaming compacts.
- 3. Although not a division, the North Dakota racing commission is located within the office of attorney general. The racing commission is appointed by the governor and is responsible for providing for racing under the certificate system, setting racing dates, adopting and administering rules for the regulation of live and simulcast parimutuel racing, administering special funds (breeders, purse, race promotion), licensing all participants in live and simulcast racing, regulating bids on licensed activities, and considering and authorizing all proposed extensions, additions, or improvements to facilities owned or leased by a licensee. The racing commission also is responsible for licensing live and simulcast horse racing under a racing addendum to a tribal gaming compact if the tribe so elects. The racing commission appoints a director of racing who is responsible for carrying out the duties and responsibilities of the commission.

History: Amended effective September 1, 1982; June 1, 1986; September 1, 1989; May 1, 1992; May 1, 1994.

General Authority: NDCC 28-32-02.1

Law Implemented: NDCC 28-32-02.1